

Appl. No. 10/010,858
Response to Restriction/Election dated August 11, 2004
Reply to Office Action of June 24, 2004

REMARKS/ARGUMENTS

Claims 1, 2, 3, 6, 10, 12, 13, 18, 20, 25 and 30 remain pending in this Application. In the Office Action mailed on June 26, 2004, the Examiner requested that the claims be restricted to:

- 5 Group I: Claims 1-20, 25 and 30, drawn to an electrode material composition, classified in class 429, subclass 209; and
- Group II: Claims 21-24 and 26-19, drawn to a method of making an electrode material, classified in class 29, subclass 623.1.

- 10 The Examiner further requested election of certain species depending on the group elected. If Group I was chosen, then a species from each of the following categories was requested: (1) a surface/chemical modifier; (2) a positive electrode material; and if claim 30 was chosen: a precursor.

Restriction/Election

- 15 The Examiner requested that the claims be restricted to one of the groups listed above. Applicant hereby elects *with traverse* Group I (claims 1-20, 25 and 30), drawn to an electrode material compositions classified in class 429, subclass 209, for continued prosecution.

- 20 The Examiner further requested election of certain species depending on the group elected. The Applicants hereby elected the following species in Group I:

Surface/chemical modifier: $\text{Li}_x\text{Ni}_{1-y}\text{M}_y\text{O}_2$;

Positive electrode material: LiMn_2O_4 ; and

If claim 30 is chosen: the precursor: $\text{Li}_{1+x}\text{Mn}_{2-x-y}\text{M}_y\text{O}_4$.

- 25 Traversal is argued on the grounds that a thorough search of the subject matter of claims 1-20 would necessarily include all art classifications 429 and 29 cited by the Examiner. As such, examination of claims 1-30 on the merits would impose no additional burden on the Patent Office. See MPEP 803. Claim 1 is considered generic, upon allowance of any generic claim, Applicants request respectfully rejoinder of the

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non-elected species.

An action on the merits of the claims and a timely Notice of Allowance be issued in this case. If the Examiner has any questions or comments, or if further clarification is required, it is requested that the Examiner contact the undersigned at the telephone number listed below.

Dated: August 11, 2004.

Respectfully submitted,



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